

UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

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April 3, 2008

CERTIFIED

Mr. Donald W. Jones, Attorney
Hulston, Jones & Marsh
2060 East Sunshine Street
Springfield, MO 65804

RE: Norbury Electric, LLC
Case 17-RM-860

Dear Mr. Jones:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

As a result of the investigation, it does not appear that further proceedings on the petition are warranted at this time. The petition seeks an election in the following unit:

All journeyman electricians and apprentice electricians regularly employed by Norbury Electric, LLC, excluding all supervisors and others.

The investigation disclosed that at the time the petition was filed the only two employees employed in the bargaining unit by Norbury Electric, LLC, the Employer, are Joel Norbury and Paul Norbury. Joel Norbury is the husband of Norbury Electric's owner Kristi Norbury. During the past twenty-four months, Joel and Paul Norbury have been the Employer's only employees. The Employer has no plans to increase its employee complement.

In addition, the investigation disclosed that that on April 28, 2003, the Employer's owner Kristi Norbury executed a "Letter of Assent," which designated the National Association of Electrical Contractors (NECA) as its bargaining representative and agreed to be bound to any collective-bargaining agreement reached between NECA and IBEW Local 95, the Union. By its terms, the "Letter of Assent" remains in effect until the

Employer gives NECA and the Union notice of termination at least 150 days prior to the expiration of the then current collective-bargaining agreement. The current collective-bargaining agreement is effective by its terms June 1, 2005 through May 31, 2008. On February 13, 2008 the Employer provided NECA and the Union with notice of its intent to withdraw from the "Letter of Assent."

Upon consideration of the undisputed facts, I have concluded that the petitioned-for unit is inappropriate within the meaning of the Act. The statutory definition of an "employee" in Section 2(3) of the Act specifically excludes "any individual employed by his parent or spouse." Inasmuch as Joel Norbury is not an "employee" under the Act due to his relationship with the Employer's owner, the petitioned-for unit is a one-man unit. The Board has long held that it will not direct an election and/or certify a representative for bargaining purpose in a unit consisting of only one employee. Moreover, even assuming that a broader multi-employer unit would be found appropriate predicated on the Employer's Letter of Assent, the petitioned-for unit is inappropriate as it represents only a subset of the larger appropriate unit. Accordingly, I am dismissing the petition in this matter.

Pursuant to the National Labor Relations Board's Rules and Regulations, Series 8, as amended, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570. A copy of such request must be served on the Regional Director and each of the other parties to the proceeding. This request for review must contain a complete statement setting forth the facts and reasons on which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board in Washington, DC by close of business on **April 17, 2008**, at 5 p.m. (ET). You should be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of a request for review by facsimile transmission. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file.

A request for review may also be submitted by electronic filing. See the attachment provided in the initial correspondence in this case or refer to OM 05-30 and OM 07-07, which are available on the Agency's website at www.nlr.gov for a detailed explanation of requirements which must be met when electronically submitting documents to the Board and Regional Offices. Guidance can also be found under *E-Gov* on the Board's website. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, either by mail or by electronic filing. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, DC, and a copy of any such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. The request for review and any extension of time for filing must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding, and a copy must be served in the same or faster manner as that utilized in filing the request with the board. When filing with the Board is accomplished

by personal service, however, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail.

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file one of the documents which may now be filed electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Guidance for E-Filing can also be found on the National Labor Relations Board website at www.nlrb.gov. On the home page of the website, select the E-Gov tab and click on E-Filing. Then select the NLRB office for which you wish to E-File your documents. Detailed E-Filing instructions explaining how to file the documents electronically will be displayed.

The request for review and any request for extension of time must include a statement that a copy has been served on this office and on each of the other parties to this proceeding in the same or a faster manner as that utilized in filing the request with the Board.

Very truly yours,

/s/ Daniel L. Hubbel

Daniel L. Hubbel
Regional Director

DLH:pmc

Enclosure

cc:

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bc: Office of the Executive Secretary